

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

Case No.: _____

MSP RECOVERY CLAIMS, SERIES LLC,

Plaintiff,

vs.

STATE FARM MUTUAL
AUTOMOBILE INSURANCE COMPANY,

Defendant,

_____ /

**DEFENDANT, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY'S
NOTICE OF REMOVAL**

Defendant, STATE FARM MUTUAL AUTOMOBILE ("State Farm"), by and through its undersigned counsel, pursuant to 28 U.S.C. §§1441, and 1446, hereby removes this action from the County Court of the Eleventh Circuit, in and for Miami-Dade County, Florida, Case No. 2022-017956-CC-25, to the United States District Court for the Southern District of Florida, Miami Division. In support of removal, State Farm states:

1. Plaintiff, MSP RECOVERY CLAIMS, SERIES LLC ("Plaintiff"), has brought a three count complaint ("Complaint") against State Farm in the County Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida as an assignee.

2. Count I of the Complaint asserts a private cause of action under 42 U.S.C. §1395y(b)(3)(A). Count II of the Complaint asserts a direct right of recovery pursuant to 42 C.F.R. §411.24 (e) for breach of contract. Count III of the Complaint asserts a claim for declaratory relief seeking a declaration that State Farm has a historical, present, and continuing

duty to reimburse Plaintiff for the medical expenses paid under the Medicare Secondary Payer law.

3. This Court has jurisdiction over the matter under 28 U.S.C. §1441(a), which provides:

Any civil action brought in a State Court of which the District Courts of the United States have original jurisdiction, may be removed by the Defendant or the Defendants, to the District Court of the United States for the district and division embracing the place where such action is pending.

28 U.S.C. §1441(a).

4. Thus, this Court has original jurisdiction over the Complaint because Plaintiff has brought causes of action under 42 U.S.C. §1395y (b)(3)(A) and 42 C.F.R. §411.24 (e).¹

5. Therefore, under 28 U.S.C. §1441, this action is being removed since federal law creates the causes of action contained in the complaint. See Merrell Dow Pharm. Inc. v. Thompson, 478 U.S. 804, 808 (1986).

6. Additionally, this Court has Supplemental jurisdiction to decide the claim for declaratory relief pursuant to 28 U.S.C. § 1367, which allows federal courts to hear and decide any claims brought along with federal-law claims when they “are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy.” See Wisconsin Dept. of Corr. v. Schacht, 524 U.S. 381, 387 (1998). Thus, this Court also has jurisdiction to hear the claim for declaratory relief as it seeks a determination as to Plaintiff’s right to reimbursement, which only arises from federal law and is therefore so related to the federal claims that it forms part of the same case or controversy.

¹ 42 C.F.R. § 411.24 governs recovery from primary payers when conditional Medicare payment is made.

MSP RECOVERY v. STATE FARM MUTUAL

Page 3

7. This Notice of Removal is being filed within thirty (30) days of receipt through service of Plaintiff's initial pleading. Therefore, this Notice is timely filed pursuant to 28 U.S.C § 1446(b)(1).

8. Based on the allegations of the Complaint, the territory assigned is the United States District Court for the Southern District of Florida under 28 U.S.C. § 89, which includes Dade County, Florida.

9. In accordance with 28 U.S.C. §1446(a), a copy of all process, pleadings, orders, and other papers or exhibits on file in the County Court are attached to this Notice. *See Composite Exhibit "A"*.

10. In accordance with 28 U.S.C. §1446(d), State Farm has notified Plaintiff in writing of this filing. It has also filed a copy of this Notice with the Clerk of the County Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida.

WHEREFORE, Defendant, STATE FARM MUTUAL INSURANCE COMPANY, respectfully requests that further proceedings in the County Court for the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida in Case Number 22-017956-CC-25, be discontinued, and that this action be removed from the County Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida, to the United States District Court for the Southern District of Florida, Miami Division and any other relief this Court deems appropriate and necessary.

Respectfully submitted,

KUBICKI DRAPER
Counsel for Defendant

By: /s/ Barbara Fox
BARBARA E. FOX, ESQ.
Florida Bar Number: 155608

MSP RECOVERY v. STATE FARM MUTUAL

Page 4

bf@kubickidraper.com
CARYN L. BELLUS, ESQ.
Florida Bar Number: 060445
cb@kubickidraper.com

9100 S Dadeland Blvd., Suite 1800
Miami, Florida 33156
Direct Line: (305) 982-6634
Facsimile: (305) 374-7846
E-Service: bf-kd@kubickidraper.com
Cb-kd@kubickidraper.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by E-mail to: Natalie M. Rico Esq., of Milberg Coleman Bryson Phillips Grossman, PLLC at Nrico@milberg.com, and Jordan M. Macejka, Esq., of Milberg Coleman Bryson Phillips Grossman, PLLC at Jmacejka@milberg.com, and at Amkamanga@milberg.com, this 3rd day of August, 2022.

By: /s/ Barbara Fox
BARBARA E. FOX, ESQ.
Florida Bar Number: 155608
CARYN L. BELLUS, ESQ.
Florida Bar Number: 060445